

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Promoting Diversification of Ownership In the Broadcasting Services	)	MB Docket No. 07-294
	)	
Review of Media Bureau Data Practices	)	MB Docket No. 10-103
	)	
Amendment of Part 1 of the Commission's Rules, Concerning Practice and Procedure, Amendment of CORES Registration System	)	MB Docket No. 10-234
	)	

To: Secretary, Federal Communications Commission  
Attention: The Commission

**REPLY**

On May 3, 2016, the noncommercial educational ("NCE") television and radio station licensees shown below ("NCE Licensees") submitted a petition for reconsideration of the *Report and Order, Second Report and Order, and Order on Reconsideration* in the referenced matter ("*Report and Order*"). The petition argued that the Commission's new rules requiring FRNs or RUFNRs for NCE governing board members are arbitrary and capricious because the *Report and Order* ignores substantial, un-contradicted evidence regarding their negative impact on NCE broadcast stations, and that the *Report and Order* does not articulate a statutory basis for the imposition of the FRN/RUFNR requirement on NCE stations.

Petitions for reconsideration of the *Report and Order* were also filed by the State University of New York,<sup>1</sup> American Public Media Group,<sup>2</sup> and Public Broadcasting Parties represented by the law firm of Schwartz, Woods & Miller,<sup>3</sup> each of which also challenged the lawfulness of the Commission's FRN/RUFNR requirements for NCE stations.

By the June 2, 2016 opposition deadline, and to date, no party has opposed the petitions for reconsideration. One party, the Board of Trustees of the University of Alabama, filed comments<sup>4</sup> expressing its agreement with the points raised in the petitions.

Coincidentally, on May 25, 2016, the United States Court of Appeals for the Third Circuit issued yet another decision highly critical of the Commission's handling of broadcast ownership and diversity initiatives in *Prometheus Radio Project et al. v. FCC*.<sup>5</sup> That decision does not of course address the issues raised by the petitions for reconsideration, but it is clear that the Court is only interested in minority and women ownership data for commercial broadcast stations. *See, e.g., Prometheus III*, slip opinion at 21.

#### Statement in Reply

This Reply is submitted on behalf of the NCE Licensees for the purpose of noting that the Commission has no apparent support, *anywhere*, for its decision to apply the FRN/RUFNR rules

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<sup>1</sup> Petition for Reconsideration filed by State University of New York in MB Docket Nos. 07-294, 10-103 and 12-342 (May 4, 2016).

<sup>2</sup> Petition for Reconsideration filed by American Public Media Group in MB Docket Nos. 07-294, 10-103 and 12-342 (May 4, 2016).

<sup>3</sup> Petition for Reconsideration filed by Schwartz, Woods & Miller on behalf of Public Broadcasting Parties in MB Docket Nos. 07-294, 10-103 and 12-342 (May 4, 2016).

<sup>4</sup> Comments of the Board of Trustees of the University of Alabama in MB Docket Nos. 07-294, 10-103 and 12-342 (June 2, 2016).

<sup>5</sup> *Prometheus Radio Project et al. v. FCC* (Nos. 15-3863, 15-3864, 15-3865, 15-3866), 3<sup>rd</sup> Circuit, May 25, 2016 ("*Prometheus III*).

to NCE stations. Furthermore, NCE “ownership” (to the extent the concept even applies to NCE stations), is not relevant to, and should not be considered in connection with, the Commission’s efforts to further broadcast ownership diversity consistent with its legal obligations as judged by the Third Circuit.

The NCE Licensees reiterate that there is no basis in the record or in the Commission’s expertise to ignore the harm that would be caused NCE stations and NCE station licensees by applying the FRN/RUFRN requirement to such stations, and that the statutory provisions cited by the Commission to support its decision do not authorize its actions.

The NCE licensees therefore continue to urge that the Commission reconsider the *Report and Order* on these points.

Respectfully submitted,

**ALASKA PUBLIC  
TELECOMMUNICATIONS, INC.**

**ARKANSAS EDUCATIONAL TELEVISION  
COMMISSION**

**BOARD OF GOVERNORS OF MISSOURI  
STATE UNIVERSITY**

**BOARD OF REGENTS, UNIVERSITY OF  
WISCONSIN SYSTEM**

**BOARD OF SUPERVISORS, LOUISIANA  
STATE UNIVERSITY & AGRICULTURAL  
AND MECHANICAL COLLEGE**

**BOARD OF TRUSTEES FOR SAN DIEGO  
STATE UNIVERSITY**

**BOARD OF TRUSTEES OF COMMUNITY  
COLLEGE DISTRICT NO. 508, COUNTY OF  
COOK AND STATE OF ILLINOIS**

**THE BOARD OF TRUSTEES OF THE  
UNIVERSITY OF ILLINOIS**

**BRADLEY UNIVERSITY**

**CENTRAL MICHIGAN UNIVERSITY**

**GEORGIA PUBLIC  
TELECOMMUNICATIONS COMMISSION**

**GREATER CINCINNATI TELEVISION  
EDUCATIONAL FOUNDATION**

**GREATER DAYTON PUBLIC TELEVISION,  
INC.**

**HAMPTON ROADS EDUCATIONAL  
TELECOMMUNICATIONS ASSOCIATION**

**HAWAII PUBLIC TELEVISION  
FOUNDATION**

**ILLINOIS INSTITUTE OF TECHNOLOGY**

**IOWA PUBLIC BROADCASTING BOARD**

**IOWA STATE UNIVERSITY OF SCIENCE  
AND TECHNOLOGY**

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**KCBX, INC.**

**KENT STATE UNIVERSITY**

**KENTUCKY AUTHORITY FOR  
EDUCATIONAL TELEVISION**

**KVIE, INC.**

**LEHIGH VALLEY PUBLIC  
TELECOMMUNICATIONS CORPORATION**

**MICHIANA PUBLIC BROADCASTING  
CORP.**

**MILWAUKEE AREA TECHNICAL  
COLLEGE DISTRICT BOARD**

**MONTANA STATE UNIVERSITY**

**MOUNTAIN LAKE PUBLIC  
TELECOMMUNICATIONS COUNCIL**

**NEBRASKA EDUCATIONAL  
TELECOMMUNICATIONS COMMISSION**

**NEW JERSEY PUBLIC BROADCASTING  
AUTHORITY**

**NORTHEASTERN PENNSYLVANIA  
EDUCATIONAL TELEVISION  
ASSOCIATION, INC.**

**NORTHERN ARIZONA UNIVERSITY**

**NORTHERN MINNESOTA PUBLIC  
TELEVISION, INC.**

**THE OHIO STATE UNIVERSITY**

**OHIO UNIVERSITY**

**OKLAHOMA EDUCATIONAL TELEVISION  
AUTHORITY**

**OKLAHOMA STATE UNIVERSITY**

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**PUBLIC BROADCASTING OF NORTHWEST  
PENNSYLVANIA, INC.**

**PUBLIC TELEVISION 19, INC.**

**REGENTS OF NEW MEXICO STATE  
UNIVERSITY**

**REGENTS OF THE UNIVERSITY OF  
CALIFORNIA**

**REGENTS OF THE UNIVERSITY OF  
MICHIGAN**

**REGENTS OF THE UNIVERSITY OF NEW  
MEXICO (KUNM)**

**REGENTS OF THE UNIVERSITY OF NEW  
MEXICO AND BOARD OF EDUCATION OF  
THE CITY OF ALBUQUERQUE, NEW  
MEXICO (KNME)**

**ROCKY MOUNTAIN PUBLIC  
BROADCASTING NETWORK, INC.**

**SOUTH CAROLINA EDUCATIONAL  
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**STATE OF WISCONSIN – EDUCATIONAL  
COMMUNICATIONS BOARD**

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**UNIVERSITY OF ALASKA**

**UNIVERSITY OF CENTRAL FLORIDA**

**UNIVERSITY OF HOUSTON SYSTEM**

**THE UNIVERSITY OF IOWA**

**UNIVERSITY OF MINNESOTA**

**UNIVERSITY OF NEBRASKA**

**UNIVERSITY OF NORTHERN IOWA**

**UNIVERSITY OF OREGON**

**WAMC**

**WASHINGTON STATE UNIVERSITY**

**WAYNE STATE UNIVERSITY**

**WEST CENTRAL ILLINOIS EDUCATIONAL  
TELECOMMUNICATIONS CORPORATION**

**WINDOW TO THE WORLD  
COMMUNICATIONS, INC.**

**WTF, INC.**

By: /s/ Todd D. Gray

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